

CCDLA
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February 13, 2013

Hon. Eric D. Coleman, Co-Chair
Hon. Gerald M. Fox, Co-Chair
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, CT 06106

Re: Raised Bill 6342

Dear Chairmen Coleman and Fox:

CCDLA is a not-for-profit organization of approximately three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

CCDLA opposes Raised Bill No. 6342 which amends the Risk of Injury Statute (CGS § 53-21) to encompass the conduct of "any person who . . . intentionally and unreasonably interferes with or prevents the making of a report of suspected child abuse or neglect required under section 17a-101a . . .," and designates this conduct a Class D felony.

Raised bill 6342, Section 1 contains terms that are impermissibly vague. Those terms are "unreasonably" and "interfere" The bill provides no guidance or notice as to the sort of conduct that would be deemed "unreasonable", or what sort of conduct constitutes "interference" with the mandated reporter's obligation to report abuse or neglect of a child. The bill requires the reader to guess its meaning, which will lead to inconsistent and overly broad application.

Raised bill 6342 would enable police, prosecutors and DCF to apply fluctuating standards to conduct with no consistent application of a clearly defined law. To one law enforcement official, a mother who has a good faith belief that her child has not been abused, and who tries to convince a teacher not to report alleged abuse to DCF, would be deemed to have acted intentionally and unreasonably, and to have interfered with the teacher/mandated reporter in making the report. To another, this conduct would not be considered unreasonable.

I and other members of CCDLA have represented clients in DCF matters who were substantiated for child abuse or neglect, however, after demanding a review of those findings, have, on occasion, won reversal of the substantiation findings. Raised bill 6342 would enable the prosecution simply because the parent tried to convince the mandated reporter not to make a report, even when they have been exonerated of the underlying allegations. Raised bill 6342 offers no relief to that parent once they are exonerated of abuse or neglect, but only adds insult to injury.

Raised bill 6342 could also be construed as criminalizing the conduct of an attorney who offers legal counseling to a mandated reporter on whether they have an obligation to make a report. It offers no exception for good faith legal advice.

Raised bill 6342 is unnecessary since there are various provisions in the Connecticut General Statutes that allow for the prosecution of individuals engaged in the sort of conduct that the bill seeks to proscribe. For instance, if the person who is allegedly interfering with the mandated reporting is a mandated reporter himself, he too could be charged with a violation of 17a-101a. Additionally, whether the person who is allegedly interfering with or preventing a report is a mandated reporter or not, depending on their conduct in preventing or interfering, they could be charged with a violation of 17a-101a as an accessory¹, or be charged with conspiracy² to violate 17a-101a.

Finally, Raised bill 6342, with no justification or explanation, imposes a greater penalty on someone who may not even be a mandated reporter, than the penalty imposed on the mandated reporter who violates 17a-101a, without considering the culpability of either actor. A distraught parent who tries to convince a teacher that his child is not the victim of abuse and not to report the alleged abuse, would be treated more harshly than a mandated reporter who saw clear signs of abuse but ignores the signs or otherwise acts in derogation of his duty. Such application is unfair and inconsistent with the interest of justice.

¹ Sec. 53a-8. Criminal liability for acts of another.

(a) A person, acting with the mental state required for commission of an offense, who solicits, requests, commands, importunes or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable for such conduct and may be prosecuted and punished as if he were the principal offender.

² Sec. 53a-48. Conspiracy

(a) A person is guilty of conspiracy when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them commits an overt act in pursuance of such conspiracy.

Please feel free to contact me if you wish to discuss this further. Thank you for your time and consideration.

Sincerely,



Motra Buckley

President - CCDLA

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